

# **The Federal Update for April 18, 2025**

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Re: Federal Update

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## Legislation and Guidance

### Trump Administration Takes Further Action on Deregulation

In recent weeks, the Trump administration has taken further action to advance its deregulation agenda, including publishing a request for information on deregulation in the *Federal Register* and issuing a memorandum directing agencies to repeal unlawful regulations.

In the request for information, the Office of Management and Budget (OMB) asks the public to submit comments by May 12th identifying regulations across the federal government that are “unnecessary, unlawful, unduly burdensome, or unsound.” In addition, OMB asks commenters to provide an explanation as to why a regulation should be rescinded and to focus on regulations that are contrary to the U.S. Constitution, outdated, unnecessary, costly, or impeding domestic businesses. Further, the federal government’s website where comments on proposed regulations or other regulatory action can be submitted has a tool to “submit deregulation ideas,” where, similar to the request for information, members of the public can submit proposals for rescinding regulations.

In addition to seeking comments from the public, the White House issued a memorandum to all federal agency heads on April 9th titled “Directing the Repeal of Unlawful Regulations.” The memorandum is a follow-up to the President’s Executive Order (EO) from February that requires federal agencies to identify regulations over a 60-day period within several categories, such as regulations that are unconstitutional or involve social or political issues, and to create a plan for modifying or rescinding those rules.

The memorandum issued this month expands that review to require federal agencies to determine whether each regulation promulgated by the agency aligns with 10 Supreme Court decisions, including *Loper Bright Enterprises v. Raimondo, Students for Fair Admissions v. Harvard, and Carson v. Makin,* among others. The memorandum also directs federal agencies to repeal any regulations found to be contrary to these decisions without undertaking a notice and comment period under the Administrative Procedure Act (APA), stating that these actions fall within the APA’s “good cause” exception. That exception allows agencies to skip notice and comment procedures when they would be “impracticable, unnecessary, or contrary to the public interest.” The administration states that enforcing unlawful regulations is “clearly contrary to the public interest” and that the notice and comment process is unnecessary when the repeal of a regulation is required “as a matter of law” to comply with a Supreme Court ruling.

The memorandum tells agencies to prioritize repealing regulations in conflict with the named Supreme Court decisions at the conclusion of the 60-day review period mandated by the President’s February EO and to submit explanations to the Office of Information and Regulatory Affairs for any regulations that were identified under the 60-day review but that the agency has decided not to repeal.

[The *Federal Register* notice is available here](https://www.federalregister.gov/documents/2025/04/11/2025-06316/request-for-information-deregulation), and [the White House memorandum is available here](https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/).

Author: KSC

## News

### Higher Education Groups Sue Energy Department Over Cuts

After an announcement last week that the U.S. Department of Energy (DOE) was implementing a cap on indirect costs, higher education groups filed a lawsuit challenging the new policy. The plaintiffs include the Association of American Universities, American Council on Education, Association of Public and Land-Grant Universities, and multiple public and private universities. In a decision on Wednesday, a federal judge temporarily blocked DOE from implementing the new indirect cost policy.

DOE released the policy change in a memorandum sent to institutions of higher education (IHEs) last week. The memo sought to set new policies for establishing indirect cost rates, which are currently negotiated between IHEs and the U.S. Departments of Health and Human Services or Defense. The new policy would require DOE to use a standard 15 percent indirect cost rate, instead of the negotiated rate, on all future grant awards. DOE also stated that it would be terminating all current awards that do not comply with the new policy. The agency estimates that the change will result in savings of $405 million annually.

However, higher education groups argue that the policy is an unlawful funding cut that would “devastate scientific research at America’s universities.” They say that the policy violates the Administrative Procedure Act; 2 CFR 200.414, which provides that federally negotiated indirect costs rates must be accepted; and 2 CFR 200.340, which includes the rules for terminating awards.

Some Members of Congress are also pushing back on the policy. Senator Patty Murray (D-WA) and Congresswoman Marcy Kaptur (D-OH) sent a letter to DOE Secretary Chris Wright calling on the agency to rescind the memo. Murry and Kaptur wrote that the quick implementation of a new policy without consulting IHEs or Congress has led to confusion in the community and is “shortsighted and harmful.” They also ask the Secretary to provide a justification for the cap, a list of implications for research, and the consequences for IHEs not meeting the new policy requirements.

This is not the first time an agency has attempted to cap indirect cost rates at 15 percent. Earlier this year, the National Institutes of Health implemented a cap that was also blocked by a federal judge.

In the Wednesday ruling, Judge Burroughs said the DOE policy would cause the plaintiffs “immediate and irreparable injury,” and therefore issued a temporary restraining order. A hearing is scheduled for April 28th.

Resources:

Kelsey Tamborrino, “Universities and colleges sue Energy Department over limits on ‘indirect costs’,” *Politico*, April 14, 2025.

Kelsey Tamborrino, “Democratic appropriators press Energy Department to reverse research funding policy,” *Politico*, April 16, 2025.

Author: BTW

### OIG Tells Senators It Will Probe Impact of Layoffs

Responding to a letter from a group of Senators sent last month, U.S. Department of Education Acting Inspector General Rene Rocque said the agency would study the impact of a smaller agency workforce. In the letter, Rocque said the Office of Inspector General (OIG) would be “initiating a series of reviews” to provide information on the impact of the Deferred Resignation Program, the Voluntary Separation Incentive Payment, Voluntary Early Retirement Agreements, and involuntary reductions in force. The reviews are intended to “identify the cumulative effect of staffing reductions in relation to the selected offices’ programs and responsibilities.” Reports are expected to be published starting this summer.

In their original letter, Senators Elizabeth Warren (D-MA), Mazie Hirono (D-HI), Jeff Merkley (D-OR), Jeanne Shaheen (D-NH), Richard Blumenthal (D-CT), Alex Padilla (D-CA), Angela Alsobrooks (D-MD), Chuck Schumer (D-NY), Ron Wyden (D-OR), and Dick Durbin (D-IL) argue that the administration is effectively attempting to “dismantle the Department of Education through a Reduction in Force” and asks OIG to determine whether the efforts will undermine the agency’s ability to “promote student achievement” while “ensuring equal access.” The letter also asks for an evaluation of how these efforts may “undermine the federal government’s ability to support [S]tate and local governments’ educational systems” and whether State and local entities have the “capacity to replace federal education funding, support, and program administration.”

[The response to Senators is here](https://www.warren.senate.gov/imo/media/doc/ed_oig_letter_to_senators_4-9-2025.pdf); [the original letter is here](https://www.warren.senate.gov/imo/media/doc/letter_to_ed_ig.pdf).

Author: JCM

### Judge Restores USDA Funding in Maine Title IX Case

A federal judge has ordered the U.S. Department of Agriculture (USDA) to restore funding to Maine schools while a dispute over Title IX proceeds. Federal agencies, including USDA, have threatened or acted to pull funding for the State as its top legal officers insist that they must follow State law, which extends protections on the basis of sex to gender identity. This interpretation contradicts the policy of the Trump administration, which has insisted that protections under Title IX on the basis of sex are strictly limited to biological sex and, in fact, that accommodating a more expansive definition of sex can lead to discrimination against other female students.

The temporary restraining order issued by the judge comes in response to an argument from Maine’s attorney general that the administration did not follow the Administrative Procedure Act in announcing the new policy or terminating the State’s funding.

The case is widely seen as a bellwether in how federal agencies can withhold funding from States that do not agree with federal interpretations of existing laws. The U.S. Department of Education has similarly threatened Maine with a withholding of its federal education funds, and the U.S. Department of Justice announced Wednesday it would take the State to court to enforce federal policy. “I hope [Maine] Governor [Janet] Mills will recognize that her political feud with the President will deprive the students in her State of much more than the right to fair sporting events,” Secretary of Education Linda McMahon said at a press conference Wednesday. “After all, compliance with federal civil rights law is a universal prerequisite for receiving federal funding.”

But Maine argues that the case is not about sports or gender, rather it is about whether States can make and enforce their own laws that are contrary to non-binding federal guidance.

Author: JCM

### ED Announces Additional Appointees

The U.S. Department of Education (ED) announced additional appointees joining the agency on Tuesday, as the new administration works to fill open political positions across several ED offices. The new staff are politically appointed and are not subject to Senate confirmation like some roles at ED are.

New staff include Paul Moore as the Assistant General Counsel and the Chief Investigative Counsel, Benjamin May as Deputy General Counsel, Brandy Brown as Deputy Assistant Secretary in the Office of Legislation and Congressional Affairs, Sarah Wilson as Deputy Assistant Secretary in the Office of Elementary and Secondary Education (OESE), Lauren McCarthy as Senior Counsel, and Michael Brickman and Noah Pollak as senior advisors. Several of the appointees served at ED or other agencies under prior administrations or have experience working for conservative political organizations. Wilson, who will serve as a deputy in OESE, recently worked at the Ohio Department of Education and Workforce.

[ED’s Press Release on the recent appointees is available here](https://www.ed.gov/about/news/press-release/us-department-of-education-announces-trump-vance-appointees).

Author: KSC

### DOGE Takes Over Federal Grants Website

The Department of Government Efficiency (DOGE) has reportedly taken control of *grants.gov*. The federally-run website is a clearinghouse for more than $500 billion of grant awards each year, where prospective recipients can submit grant applications.

The U.S. Department of Health and Human Services (HHS) has traditionally managed the website, but now staff from the General Services Administration who are temporarily assigned to HHS and DOGE have administrator privileges. Reportedly, DOGE staff are charged with reviewing and approving opportunities before they post on the website. They have also restricted HHS staff’s administrative access to post grant notices. These actions are expected to delay award postings or effectively cancel certain grant programs.

Agency heads were previously directed to consult “with the agency’s DOGE team lead” to “review all existing ... grants” under Executive Order 14219.

Resources:

Dan Diamond, Hannah Natanson, and Carolyn Y. Johnson, “DOGE takes over federal grants website, wresting control of billions,” *The Washington Post*, April 11, 2025.

Author: BAH

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